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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/586,200

07/14/2006

Martin Ernst Tollner

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Edwards Vacuum, Inc.

2041 MISSION COLLEGE BOULEVARD

SUITE 260

SANTA CLARA, CA 95054

EXAMINER

BAYOU, AMENE SETEGNE

ART UNIT

PAPER NUMBER

3746

MAIL DATE

DELIVERY MODE

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/586,200	<b>Applicant(s)</b> TOLLNER, MARTIN ERNST	
	<b>Examiner</b> AMENE S. BAYOU	<b>Art Unit</b> 3746	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 14 August 2009.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) 6-12 and 17-22 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5 and 13-16 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 July 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>07/14/06</u> .  | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### *Election/Restrictions*

1. Applicant's election with traverse of species IV directed to figures 16-18 in the reply filed on 08/14/09 is acknowledged. The traversal is on the ground(s) that generic claim 1 captures a single general inventive concept around over-pressurizing in the initial stage without specifically limiting as to how the over-pressurizing is done. This is not found persuasive because claim 1 clearly states that **the method comprises setting an initial flow out of the chamber for achieving over pressurization.**

Species II for example on the other hand involves the principle of increasing mass flow rate into a chamber to achieve over pressurization which is distinct from species IV.

The requirement is still deemed proper and is therefore made FINAL.

### *Specification*

2. The abstract of the disclosure is objected to because it contains the phrase "Iperiod has elapsed"which is not clear. Correction is required. See MPEP § 608.01(b).

### *Claim Rejections - 35 USC § 112*

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claim 1 (and its dependent claims 2-5,13-16) are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

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5. In re claim 1 it recites “the rate of pressure increase” which lacks antecedent basis  
.Appropriate correction is required.

***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1-5, 13-16 are rejected under 35 U.S.C. 102(b) as being anticipated by McMillin et al (US 6142163).

8. In re claim 1 McMillin et al disclose a method and apparatus for pressure control including:

- A method of setting the pressure in a **chamber (132)** of a vacuum system to a required pressure (**column 3,lines 22-30;figures 2 and 3**) , the system comprising a pressure control system including a **pump (126)** for evacuating gas from the **chamber (132)** and a **flow controller (142)** for allowing the flow of gas into the **chamber (132)** , the method comprising setting an initial flow out of the chamber for achieving a pressure above the required pressure so as to increase the rate of pressure increase (**figure 3;column 3,lines 22-30;column 10,lines 1-27**) , the initial flow occurring over a transient period which does not allow the pressure to exceed the required pressure, and setting a preset flow out of the chamber after the transient period has elapsed for achieving and

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maintaining the required pressure ,wherein during the transient period the initial flow is not maintained at a constant level **(column 3,lines 22-30)**.

9. In re claim 2 McMillin et al disclose a method and apparatus for pressure control including:

- The transient period elapses when the pressure has increased to the required pressure and the preset flow maintains the pressure at the required pressure **(figure 3; column 3, lines 22-30 and column 5, lines 15-29)**.

10. In re claim 3 -5 and 16 McMillin et al disclose a method and apparatus for pressure control including:

- Setting a preset flow is attained by setting the effective pumping speed of the pressure control system to a preset effective pumping speed, and the initial flow is attained by setting the effective pumping speed lower than the preset pumping speed during the transient period **(column 12,lines 37-39;column 9 lines 28-32; column 7,lines 36-41)**;wherein the effective pumping speed is controlled by reducing the speed of the pump ,wherein setting a preset flow is attained by setting a preset speed of the pump and the initial flow is attained by reducing the speed below the preset speed during the transient period ,**( Please note that pump speed and flow rate are directly related)**.

11. In re claim 13 McMillan et al disclose a method and apparatus for pressure control including:

- During the **transient period (figure 3, column 5, lines 15-29)**, the pump speed is reduced **(Please note that pump speed and flow rate are directly related)**

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so that the amount of gas which leaks up-stream across the pump increases

**(this is inherent)** since so as to increase the gas flowing into the chamber.

12. In re claim 14 McMillan et al disclose a method and apparatus for pressure control including:

- During the transient period the initial flow is maintained at a constant level for a fixed time **(this step is a conventional method as clearly pointed out in column 5, lines 18-24).**

13. In re claim 15 McMillin et al disclose a method and apparatus for pressure control including:

- During the transient period the initial flow is not maintained at a constant level **(Figure 3; column 5, lines 15-30 and column 3, lines 22-30).**

### ***Conclusion***

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Amene Bayou whose telephone number is (571)270-3214. The examiner can normally be reached on Monday through Friday, 8:30am to 5:30pm EST. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Devon Kramer can be reached on 571-272-7118. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status

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information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Devon C Kramer/  
Supervisory Patent Examiner, Art  
Unit 3746